

# Exhibit 3

**Exhibit 3**



**U.S. Citizenship  
and Immigration  
Services**

July 25, 2011

**COW2011000600**

Jason A. Malinsky  
425 Market St.  
San Francisco, CA 94105-2482

Dear Jason A. Malinsky:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated July 15, 2011 and to your request for a waiver of all assessable FOIA fees. Your request was received in this office on July 22, 2011. Specifically, you requested:

- All statistics on overseas adjudications, including Requests for Review/Reconsideration, from the Overseas Tracking System From 2003 to present day, including, but not limited to:
  - Data on decisions (e.g. grant v. denial rates) broken down by circuit ride leader, circuit ride, office, district and individual officer;
  - Each applicant's country of origin;
  - The ultimate determination (e.g. re-interview v. reversal; Grant v. deny); and
- All records discussing or analyzing the above-mentioned statistics, Including, but not limited to internal memoranda, reports, and emails;
- The U.S. Citizenship and Immigration Services ("USCIS") quality assurance program review "of a statistically valid sample of refugee cases" conducted in Fiscal Year 2009 as described in Alejandro N. Mayorkas's July 31, 2010, memorandum to January Contreras, a copy of which is attached;
- All post-2001 USCIS data on overseas adjudications, including all available data prior to the introduction of the case management system.

Due to the increasing number of FOIA requests received by this office, ~~we may encounter some delay in~~ processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, the Department processes FOIA requests according to their order of receipt. Although DHS' goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

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As it relates to your fee waiver request, I have reviewed your letter thoroughly and have determined that you have not presented a convincing argument that you are entitled to a blanket waiver of fees.

The DHS FOIA Regulations, 6 CFR § 5.11(k)(2), set forth six factors to examine in determining whether the applicable legal standard for a fee waiver has been met. We will consider these factors in our evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns "the operations or activities of the government;"
- (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;
- (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;
- (4) Whether the contribution to public understanding of government operations or activities will be "significant;"
- (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and
- (6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

As a requester, you bear the burden under the FOIA of showing that the fee waiver requirements have been met. Based on my review of your June 15, 2011 letter and for the reasons stated herein, I have determined that your fee waiver request is deficient. Your letter does not adequately describe how or even whether the records that you are seeking contribute to the public understanding of the topic. While factors 1 and 2 have been met, you did not adequately address factors 3-6 in this fee waiver request. You have not demonstrated how you would disseminate this information nor did you describe the public's interest in the specific documents that you are seeking access to. Since your request for a fee waiver has failed to satisfy each of the required factors, I am denying your fee waiver request.

Provisions of the Act allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to non-commercial requestors. As a non-commercial requestor you will be charged 10-cents a page for duplication, although the first 100 pages are free, as are the first two hours of search time, after which you will pay the per quarter-hour rate (\$4.00, \$7.00, \$10.25) of the searcher. You stated in your request that you are willing to pay assessable fees up to \$25.00. You will be contacted before any additional fees are accrued.

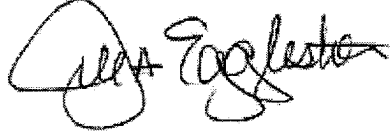
If you wish to appeal this determination, you may write to the USCIS FOIA/PA Appeals Office, 150 Space Center Loop, Suite 500, Lee's Summit, MO 64064-2139, within 60 days of the date of this letter. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

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Your request has been assigned reference number **COW2011000600**. Please refer to this identifier in any future correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill A. Eggleston". The signature is fluid and cursive, with the first name "Jill" and last name "Eggleston" clearly distinguishable.

Jill A. Eggleston  
Director, FOIA Operations